

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 14 January 2022 — Datenschutzbehörde (Austria)

(Case C-33/22)

(2022/C 138/22)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Datenschutzbehörde (Austria)

Other parties to the proceedings: WK; President of the Nationalrat

Questions referred

1. Do activities of a committee of inquiry set up by a Parliament of a Member State in the exercise of its right to scrutinise the executive fall within the scope of EU law within the meaning of the first sentence of Article 16(2) TFEU, irrespective of the subject matter of the inquiry, with the result that Regulation (EU) 2016/679 ⁽¹⁾ of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, (General Data Protection Regulation; 'the GDPR') is applicable to the processing of personal data by a parliamentary committee of inquiry of a Member State?

If Question 1 is answered in the affirmative:

2. Do activities of a committee of inquiry which has been set up by a Parliament of a Member State in the exercise of its right to scrutinise the executive and which has as the subject matter of its inquiry the activities of a police State-protection authority, that is to say, activities concerning the protection of national security within the meaning of recital 16 of the GDPR, come within the scope of the exception set out in Article 2(2)(a) of the GDPR?

If Question 2 is answered in the negative:

3. If — as in the present case — a Member State has established only one single supervisory authority in accordance with Article 51(1) of the GDPR, does the competence of that authority in respect of complaints within the meaning of Article 77(1) of the GDPR, in conjunction with Article 55(1) thereof, already arise directly from the GDPR?

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

Action brought on 4 February 2022 — European Commission v Czech Republic

(Case C-75/22)

(2022/C 138/23)

Language of the case: Czech

Parties

Applicant: European Commission (represented by: L. Armati, M. Mataija, M. Salyková, acting as Agents,

Defendant: Czech Republic

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to implement correctly Article 3(1)(g) and (h), Article 6(b), Article 7(3), Article 21(6), Article 31(3), Article 45(2)(c), Article 45(2)(f) and, in part, Article 45(2)(e), Article 45(3), Article 50(1) in conjunction with point 1(d) and (e) of Annex VII and Article 51(1) of Directive 2005/36/EC ⁽¹⁾ of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Directive 2013/55/EU ⁽²⁾ of the European Parliament and of the Council, the Czech Republic has failed to fulfil its obligations under those provisions of the directive

- order the Czech Republic to pay the costs.

Pleas in law and main arguments

Article 3(1)(g) and (h) — The Commission claims that the Czech Republic has failed to implement the obligation to fix the legal status of persons undergoing periods of supervised practice and persons preparing for an aptitude test contained in those provisions of the Directive.

Article 6(b) — The Commission alleges that the Czech Republic has failed to exempt service providers from registration with a public social security body of the host Member State for the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons.

Article 7(3) — In the Commission's view, there was no clear implementation of this provision of the Directive, which enables architects and veterinary surgeons to use the professional title of the host Member States, in so far as they are architects and veterinary surgeons.

Article 21(6) and Article 31(3) — The Commission submits that the Czech Republic failed to implement correctly those provisions concerning pursuit of professional training for nurses responsible for general care in relation to the profession of general nursing.

Article 45(2)(c), Article 45(2)(f) and, in part, Article 45(2)(e) — The Commission claims that the Czech Republic has incorrectly implemented that provision of the Directive, since it has not ensured pharmacists access to the activities included in those provisions.

Article 45(3) — The Commission takes the view that the Czech Republic has incorrectly implemented that provision of the Directive since it has not ensured the access of pharmacists who have obtained a professional qualification in another Member State to a minimal number of activities, while that approach may be made contingent only on supplementary professional experience.

Article 50(1) in conjunction with Annex VII, point 1(d) and (e) — In the Commission's opinion, that provision of the Directive has not been correctly implemented since the Czech Republic has not provided that the time limit for the provision of the documents required from the home Member State is to be two months.

Article 51(1) — The Commission alleges that the Czech Republic incorrectly implemented that provision of the Directive on the ground that it failed to provide that the time limit for the acknowledgement of receipt of the application for the recognition of professional qualifications and for informing the applicant of any missing document is one month.

⁽¹⁾ OJ L 255, 30.9.2005, p. 22.

⁽²⁾ Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System, OJ 2013 L 354, p. 132.